

11. No structure may be built upon any ingress, egress or utility easement which is depicted on the plat "VISTA DE SANDIA CORPORATION SUBDIVISION" by Larry E. Dominguez, R.P.S. No. 10461, dated June 1994, which plat is recorded in the records of the Clerk of Santa Fe County, New Mexico, on 4/29 1996, under reception No. 943,373, Plat Book 333, Page 4-5.

12. No activity shall be permitted which produces interference to ordinary television reception including, but not limited to improperly tuned HAM or citizens' band radios, transmission stations or related devices.

13. No outdoor toilets shall be erected or maintained on any lot and all toilets shall be connected to septic tanks or other disposal systems approved by the appropriate governmental agencies.

14. All solid waste must be disposed of in accordance with applicable statutes and ordinances. Each lot owner must dispose of their solid waste by contracting with a licensed solid waste collection contractor for the disposal of the same.

15. No billboards or signs shall be permitted on the Property, except for a sign containing the name and address of the occupants of any lot and Real Estate signs.

16. No storage of tanks for the storage of any flammable or hazardous substances shall be permitted on the Property.

17. No surface drainage shall be altered in any way that would change or increase the flow of drainage onto adjoining Property or lots.

ARTICLES IV - ANIMALS

1. Horses shall be permitted on the Property, provided that no more than two (2) horses and one (1) foal shall be permitted for each one (1) lot. Horses shall be controlled and confined so that they do not openly graze on any lot or any part of the Property.

2. Household pets, which is expressly defined to include dogs and cats, shall be permitted on the Property, provided that no more than three (3) of such animals, in total, shall be permitted for each one (1) acre of real estate. Household pets such as fish or caged birds that never go outdoors are not limited in number by this paragraph.

3. Dogs shall not be allowed to run free without immediate supervision. Dogs shall not be allowed to bark continuously so as to become a nuisance to the owner or occupant of any other lot within the Property.

4. Notwithstanding any other provision of this Article, all animals shall be maintained in such a manner as to prevent them from being or becoming a nuisance to other owners of lots within the Property, either from noise created by said animals, or by odors or other practices which may be, or become, a nuisance to other owners of lots.

ARTICLE V - EASEMENTS

1. The ingress, egress and utility easements of record are shown on the plat of survey entitled 'VISTA DE SANDIA CORPORATION SUBDIVISION' and recorded in the Office of the County Clerk of Santa Fe in Plat Book 333 Page 4-5.

ARTICLE VI - GENERAL PROVISIONS

1264914

1. The provisions of this declaration may be enforced by the owner of any lot within the Property by any proceeding at law or in equity. Failure by any owner to enforce any covenant or restriction contained in this declaration shall not be deemed a waiver of the right to do so thereafter. Any Lot owner in violation of these covenants, conditions and restrictions will be liable for court costs and attorney fee's.
2. Invalidation of any provision of this declaration by judgement or court order shall not affect any other provisions of this declaration which shall remain in full force and effect.
3. This declaration may be amended by a vote of two-thirds (2/3) of the owners of lots with the Property. For purposes of voting to amend this declaration, the owner or owners of lots shall have one (1) vote for each lot owned by said lot owner.
4. The covenants and restrictions contained in this declaration shall run with the land and shall bind, and inure to the benefit of the declarants and their respective heirs, successors and assigns. This declaration shall be effective until March 1, 2030, after which time this declaration shall automatically be extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds (2/3) of the acreage within the Property has been recorded which expressly terminated the operation of this declaration.

ARTICLE VII - WATER RIGHTS & RESTRICTIONS

1. When the Santa Fe County Water Company has extended service to within two hundred feet (200') of the nearest property line of Lot 2, which two hundred feet (200') shall be measured along platted easements, the Owners shall connect to said water service, in accordance with the applicable rules, regulations, tariffs and line extension policies of the Santa Fe County Water Company. Until such time as the water of the Santa Fe County Water Company is within said two hundred feet (200'), the owners shall have no obligation to connect to the Santa Fe County Water Company. The term "platted easements" as used in this paragraph, shall mean easements allowing the owners to use the Property of others for the installation of utilities to serve Lot 2.
2. The owners agree to develop the Property through the use of shared wells, to the extent that the same is feasible.
3. The owners agree that the well construction on any new wells drilled after the date of the recording of this Declaration shall be done in such a manner that the well depth is at least fifty feet (50') into the Tesuque Formation, with such measures as are reasonably necessary to prevent the communication, transmission or conduct of any waters through the well to the Ancha Formation. Attached hereto is the suggested well design to prevent such communication, transmission or transfer of water between said formations. In the event that a well is drilled to a depth of at least two hundred feet (200'), without reaching the Tesuque Formation, the owners shall contact the Santa Fe County Hydrologist for permission to use and draw water from the Ancha Formation, it being understood that the requirement to drill in the Tesuque Formation is not absolute, but subject to modification and approval by the Santa Fe County Hydrologist. The owners shall use good faith and diligent efforts to draw water only from the Tesuque Formation.

Any wells in existence at the time of the recording of this Declaration shall not be subject to the requirement to draw water solely from the Tesuque Formation.

4. At the time Tract 12 is served by the Santa Fe County Water Company's water system, the owners shall disconnect the well from service to any and all structures and residences on Tract 12, and shall only use such well for emergency purposes. At the time of such use of the well after disconnection, owners agree to give the Santa Fe County Hydrologist notice of said use and the purpose and reasons therefore.
5. Domestic water use for the lots is restricted to .25 acre feet per Lot per year as required by the Santa Fe County Land Development Code.
6. Water conserving appliances shall be installed and used, when at the time of construction or replacement of appliances, water conserving models, otherwise reasonably conforming to the needs of the owner or occupant, are commercially available in Santa Fe, New Mexico.
7. Toilets shall be of a type designed to use no more than 3.5 gallons per flush.
8. Fixtures such as bathtubs and lavatories shall be of normal capacity and fitted with facets with a maximum capacity of 4.0 gallons per minute. Shower heads shall have a capacity of no more than 3.0 gallons per minute.
9. One automatic dishwasher per Lot may be used, provided it is a model designed to use no more than 13 gallons per cycle and it has a cycle adjustment which allows reduced amounts of water to be used for reduced loads.
10. A lawn of non-native grasses may be watered, and native plant species may be watered during the first year of their growth and on a supplemental basis during critical growth periods. Non-native species may be watered if the water comes from rainwater collected by means confined to the Lot or if the water comes from recycling of household graywater.
11. A owner of a Lot subject to this Declaration shall install a water meter, approved by the Santa Fe County Hydrologist, prior to issuance of a Santa Fe County Development Permit and shall report amounts of water usage for such Lot on an annual basis to the Santa Fe County Hydrologist at the beginning and at the end of each calendar year.

ARTICLE VIII - ROAD MAINTENANCE & SNOW REMOVAL

1. The owners agree to maintain the roads within the property. The maintenance will include but will not be limited to road grading, snow removal, erosion control, maintenance of culverts. Every lot owner will be liable for their share of the costs involved to perform road maintenance & snow removal. The costs for road maintenance will be determine by the "VISTA DE SANDIA CORPORATION SUBDIVISION" HOME OWNERS ASSOCIATION.

In witness whereof, this Declaration has been executed on this 29 day of APRIL, 1996.

VISTA DE SANDIA CORPORATION SUBDIVISION.


Louis Gonzales, President

1264916

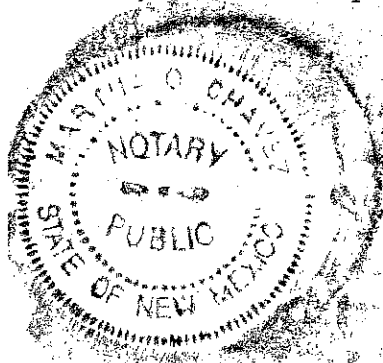
ACKNOWLEDGMENT

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.

The foregoing instrument was acknowledged before me this 29th day of April, 1996,
by Louis Gonzales, President of VISTA DE SANDIA CORPORATION SUBDIVISION.


Notary Public

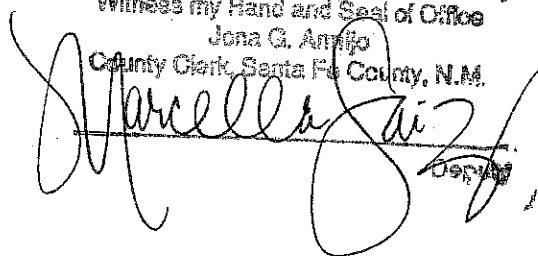
My commission expires: 12/15/97



943.374
COUNTY OF SANTA FE)SS
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 29 day of Apr. A.D.
19 96, at 11:24 o'clock a m
and was duly recorded in book 1204
page 911-920 of the records of
Santa Fe County.

Witness my Hand and Seal of Office

Jona G. Armijo
County Clerk, Santa Fe County, N.M.



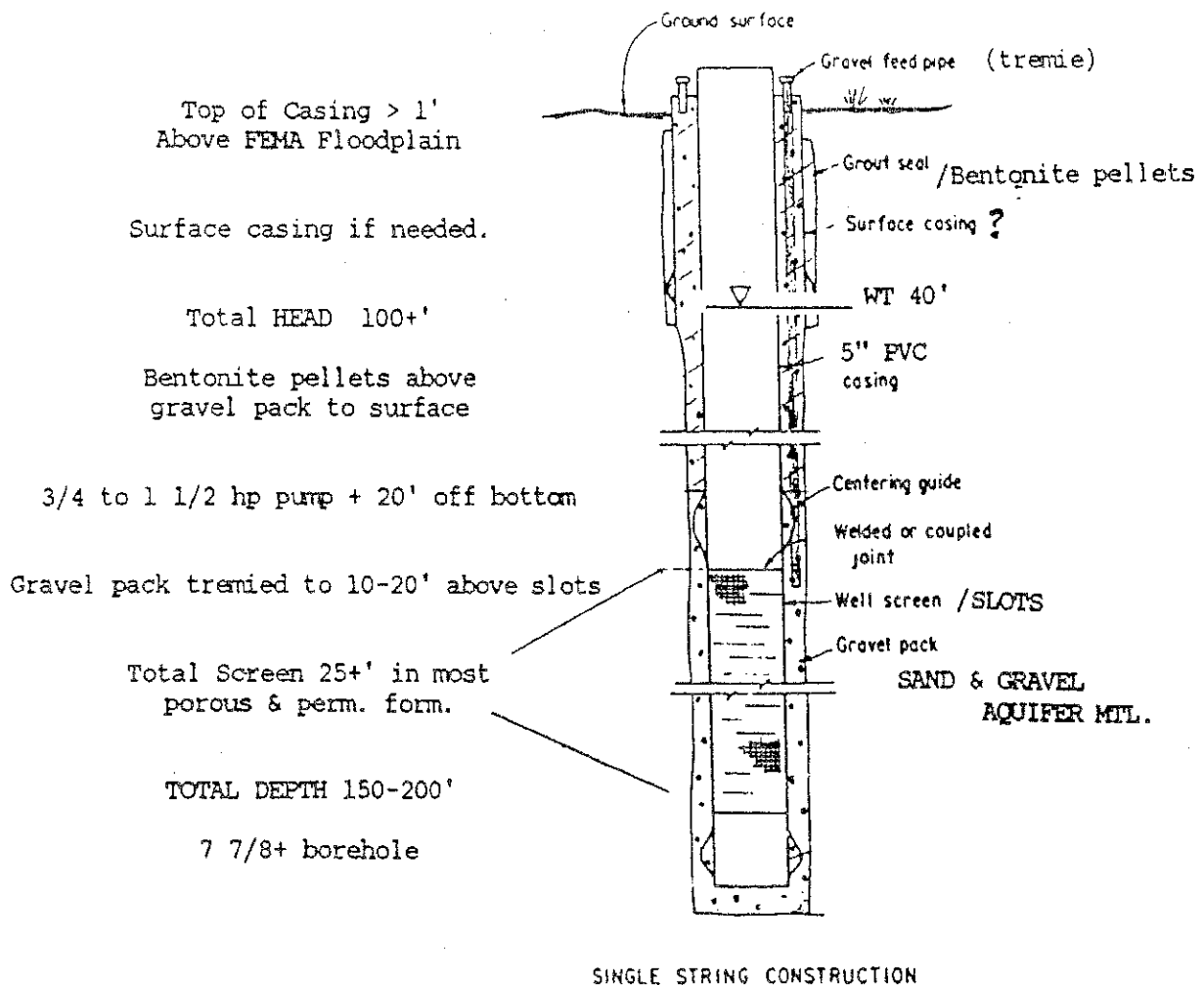


FIGURE 11-1.—Gravel packed, rotary drilled well for single string construction. 103-D-1488.

SUGGESTED PROTOTYPE WELL DESIGN
TO PRODUCE FROM THE TESUQUE FORMATION
AND ISOLATE THE ANCHA FORMATION

Prepared by: Jack P. Frost
Hydrogeologist
505-466-6435

Modified from the Ground Water Manual

DISCLOSURE STATEMENT
FOR
VISTA DE SANDIA SUBDIVISION

1264918

PLEASE READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING REGARDING THE PURCHASE OF ANY LOT IN THE VISTA DE SANDIA SUBDIVISION.

This disclosure statement is intended to provide you with enough information to permit you to make an informed decision on the purchase of property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy a Lot in the Vista De Sandia Subdivision.

The County of Santa Fe ("County") has examined this disclosure statement to determine whether the subdivider can satisfy what he has said in this disclosure statement. However, the County does not vouch for the accuracy of what is said in this disclosure statement. Further, this disclosure statement is not a recommendation or endorsement of the subdivision by either the County, or the State of New Mexico. It is informative only.

The County Santa Fe recommends that you see the property before buying it.

1. NAME OF SUBDIVISION: Vista De Sandia
2. NAME AND ADDRESS OF SUBDIVIDER/DEVELOPER:

Vista De Sandia Corporation Subdivision
(A New Mexico Corporation)
Louis Gonzales, President
211 Las Mananitas
Santa Fe, New Mexico 87501

3. NAME OF PERSON IN CHARGE OF SALES IN NEW MEXICO:

Louis Gonzales
(A licensed New Mexico real estate broker and President of Vista De Sandia Corporation)
211 Las Mananitas
Santa Fe, New Mexico 87501

4. WATER USE:

Water for the domestic use of the owners and occupants of the Lots shall be provided by shared water wells to be drilled, installed and equipped by lot owners in accordance with the provisions of the Declaration of Covenants, Conditions and Restrictions for the Subdivision. At the time that water service from the Santa Fe County Water Company is extended to within 200 feet of the Subdivision, measured along platted utility easements, owners of Lots must connect to the county water service, in accordance with the provisions of the Declaration of Water Extension Covenants for the Subdivision.

5. AMOUNT OF WATER:

1264919

Each of the lots will be restricted to the use of no more than .25 acre feet of water per annum (81,457 gallons), 223 gallons of water per day per household, unless such amount is increased with the approval of the Santa Fe County Land Use Administrator, as required by the Declaration of Water Extension Covenants for the Subdivision. Reference Hydrogeologic Report prepared by Jack Frost & Associates for Vista De Sandia Subdivision, demonstrating water availability for 100 years

6. WATER DELIVERY:

Water for the domestic use of the owners and occupants of the Lots shall be provided by individual water wells to be drilled, installed and equipped by lot owners in accordance with the provisions of the Declaration of Covenants, Conditions and Restrictions for the Subdivision. At the time that water service from Santa Fe Water Company is extended to within 200 feet of the Subdivision, measured along platted utility easements, owners of Lots must connect to the county water service, in accordance with the provisions of the Declaration of Water Extension Covenants for the Subdivision.

7. WELLS:

Owners will drill shared wells, as provided for in the Declaration of Covenants, Conditions, and Restrictions and on the subdivision plat for Vista de Sandia. At the time that water service from the Santa Fe County Water Company is extended to within 200 feet of the Subdivision, measured along platted utility easements, owners of Lots must connect to the county water service, in accordance with the provisions of the Declaration of Water Extension Covenants for the Subdivision. At the time of such connection, use of shared water wells in the Subdivision is to cease.

8. SURFACE WATER:

The Arroyo de los Chamisos flows across Lots 14, 15, & 16, and is located in the southeastern corner of the Vista de Sandia Subdivision

9. WATER QUALITY:

Based upon water quality reports from wells producing water in the location of the property, the water producing formation to be penetrated by, and serve, the wells to be drilled, it is expected that all constituents will fall within the parameters and requirements of the Santa Fe County Development Code and regulations of the New Mexico Environment Department, and will be potable.

10. LIQUID WASTE DISPOSAL:

Liquid waste disposal is to be provided by individual liquid waste disposal systems on each lot, which systems are to be constructed by each owner of the lot at the time of construction of the residential improvements on the lot, after compliance with all requirements of Santa Fe County and the State of New Mexico regarding the same. Pursuant to the Santa Fe County Land Development Code, the soil rating for this property is designated as being moderate to severe regarding limitations to septic tanks. Potential buyers of this property should inquire with the New Mexico Environment Department whether these soils are suitable for a conventional septic system or if an alternative system may be required.

11. SOLID WASTE DISPOSAL:

Solid waste disposal will not be provided by the Developer. Owners of lots must dispose of their solid waste by contracting with a licensed refuse collector for the disposal of the solid waste.

12. TERRAIN MANAGEMENT:

The soils of the property are considered suitable for residential use. No building sites are located within any floodway, flood fringe or flood plain. No building sites have slopes in excess of (SEE SLOPE MAP) Percent (____%). At the time a building permit is applied for on any vacant lot, the Terrain Management Regulations of the County Land Development Code will need to be complied with. Specifically, at the time a building permit is requested on any vacant lot, a terrain management plan prepared by a registered engineer must be submitted by the applicant. The plan will need to address detention of post development drainage, erosion and drainage structures.

13. SUBDIVISION ACCESS:

The Developer will cause the roads, to be known a "Lame Horse Road" and "Caribou Lane". The base-course roadways will be designed and constructed according to the applicable standards of the County of Santa Fe.

VISTA DE SANDIA CORPORATION
A New Mexico Corporation

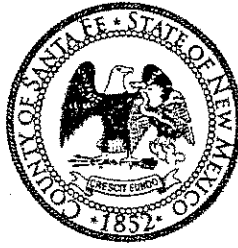
By: 

Louis Gonzales
President

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. SVAR 17-5230
DOROTHY MONTOYA VARIANCE

ORDER

THIS MATTER came before the Santa Fe County Planning Commission (Commission) for hearing on December 21, 2017, on the Application of Dorothy Montoya, Applicant, to request a variance of Chapter 10, Section 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10, Section 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10, Section 10.4.2.3.3 (Building and Design Standards) to allow a separate driveway access points for an Accessory Dwelling Unit, a variance of Chapter 10, Section 10.4.2 4 (Utilities), to allow an accessory dwelling a separate liquid waste system, and a partial plat vacation to allow lot 7 to have an accessory dwelling unit. The property is located at 33 N Paseo De Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, (Commission District 3).

1. The Applicant is the owner of the property as evidence by warranty deed recorded in the records of the Santa Fe County Clerk on April 14, 2000, as recorded in Book 1756 page 305.



2. The property consists of 2.63 acres within the Residential Estate Zoning District within the La Cienega and La Cieneguilla Community District Overlay as defined by Ordinance 2016-9, the Santa Fe County Sustainable Land Development Code (SLDC).
3. The Applicant requested to place a 1,350 square foot residence on her property so that her sons can reside in it. Currently, there is a 2000 square foot modular home located on the property and is serviced with a well and conventional septic system. The Applicant intends to place a new driveway and additional septic system to accommodate the proposed 1,350 square foot accessory dwelling. The SLDC requires a shared driveway and a shared septic so the Applicant is requesting variances from that section. After a Site inspection and further review of the subdivision, it was determined that the subject lot was located within a major subdivision and a note on the Applicant's subdivision, plat note #12 states, Guest homes are prohibited on this lot.
4. In 1994, an application for Vista de Sandia subdivision was submitted. The Application for plat approval was granted by the BCC in 1996 under case number 94-2173. The approval was for a 16 lot subdivision and lot sizes range from 2.5 acres to 2.63 acres. The lots sizes were derived from a hydrologic study prepared by Jack Frost. Each lot within the subdivision was granted a 0.26 acre foot water restriction based on the amount of water that the geo hydrologic report proved. A condition was imposed by the Board of County Commissioners that no guest homes were allowed. If the variances are granted the Applicant will submit a request to the BCC for a partial plat amendment to change the note on the plat to allow an accessory dwelling on her 2.63 acre parcel.
5. In 2016, Under Ordinance 2015-11, the Applicant obtained a permit (permit #16-478) to allow an addition to place a 700 square foot porch to comply with criteria set forth in

Chapter 10.4.2.2 (Size) to allow a 1,350 square foot accessory dwelling, Ordinance 2015-11, stated the building footprint of the accessory dwelling shall not exceed the lesser of (a): fifty percent (50%) of total building footprint of the principal residence; or (b) 1,400 square feet. Ordinance 2016-9, later amended Ordinance 2015-11, and states, the heated area of the accessory dwelling shall not exceed the lesser of a: fifty percent (50%) of heated area of the principal residence; or (b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore, a 1,350 square foot accessory dwelling would not meet code requirements.

6. The following are sections of the SLDC relevant to this application:
- a. Chapter 10.4.2.1 (Number Permitted) Only one accessory dwelling unit shall be permitted per legal lot of record. Platted major subdivisions shall only be permitted to have an accessory dwelling unit if their approval and reports and SRAs allowed and accounted for this.
 - b. Chapter 10.4.2.2 (Size) the heated area of the accessory dwelling shall not exceed the lesser of a: fifty percent (50%) of heated floor area of the principal residence; or (b) 1,400 square feet.
 - c. Chapter 10.4.2.3.3 (Building and Site Design) an accessory dwelling shall be accessed through the same driveway as the principal residence
 - d. Chapter 10.4.2.4 (Utilities) Liquid waste disposal shall be in common with the principal residence.
 - e. Chapter 4, Section 4.9.7.4, Variance Review Criteria.
 - f. A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:
 - 1. where the request is not contrary to public interest;
 - 2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
 - 3. so that the spirit of the SLDC is observed and substantial justice is done

g. Chapter 4, Section 4.9.7.5 Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
 2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
 3. All approved variances automatically expire within one year of the date of approval, unless the applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.
7. As required by the SLDC, the Applicant presented the Application to the Technical Advisory Committee (TAC) on August 3, 2017, at the regularly scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, TAC Meeting Table 4-1.
8. Notice requirements were met as per Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing, of the SLDC. In advance of a hearing on the Application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for fifteen days on the property, beginning on October 6, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 11, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject property and a list of persons sent a mailing is contained in the record.

9. On October 26 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer recommended denial of the Application as memorialized in the findings of fact and conclusions of law written order
10. At the December 21, 2017, Santa Fe County Planning Commission meeting Staff recommended denial of the variance to allow an accessory dwelling unit in a major subdivision because the original subdivision did not prove up more than 0.26 acre feet per lot and stated that guest houses are not allowed. If the Applicant had applied for the accessory dwelling unit in 2015, it would have been allowed by Code but not by subdivision plat.
11. As to the variance request from Chapter 10, 10.4.2.3.3 to allow an accessory dwelling to be accessed from a separate access point, the Commission finds that the proposed variance is a minimal easing of Code requirements as the proposed driveway will not be contrary to the public interest, as it meets separation requirements, the condition of the property constitutes an exceptional condition of the property because it is split levels so the strict application so the code would result in practical difficulties and undue hardship on the owner, and the spirit of the SLDC is observed as the new driveway will minimize disturbance of the natural terrain
12. As to the requested variance from Chapter 10, Section 10.4.2.2 to allow the size of the accessory dwelling to exceed 50% of the heated area of the main residence as proposed, the Commission finds that the request will not be contrary to the public interest., exceptional situations exist and the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner and the spirit of the SLDC is observed.

13. As to the requested variance from Chapter 10, Section 10.4.2.4 to allow a separate liquid waste disposal system for the proposed accessory dwelling, the Commission finds that the request will not be contrary to the public interest, exceptional situations exist, and the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner and the spirit of the SLDC is observed.

14. As to the requested variance from Chapter 10, Section 10.4.2.1 to allow an accessory dwelling within a major subdivision, the Commission finds that the request will not be contrary to the public interest, exceptional situations exist, and the strict application of the code would result in peculiar and exception practical difficulties or exception and undue hardship on the owner and the spirit of the SLDC is observed.

WHEREFORE, the Planning Commission, having reviewed the Application, staff report, staff's recommendation, and having conducted a public hearing on the Application, finds that the Application is well-taken and hereby approves the application for the variance from Chapter 10, 10.4.2.3.3 to allow a separate driveway access points for the proposed accessory dwelling unit; Chapter 10, Section 10.4.2.2 to allow an accessory structure to be 1,350 square feet where the main house has a 2000 square feet heated floor area; Chapter 10, Section 10.4.2.4 to allow a separate liquid waste disposal system for the proposed accessory dwelling, and Chapter 10, Section 10.4.2.1 to allow an accessory dwelling within a major subdivision with the following conditions.

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guest houses.

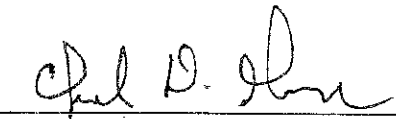
2. Applicant must install a meter on the well and submit proof at time of development permit application.

Pursuant Chapter 4, Section 4.9.7.5 , all approved variances automatically expire within one year of the date of approval, unless the applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

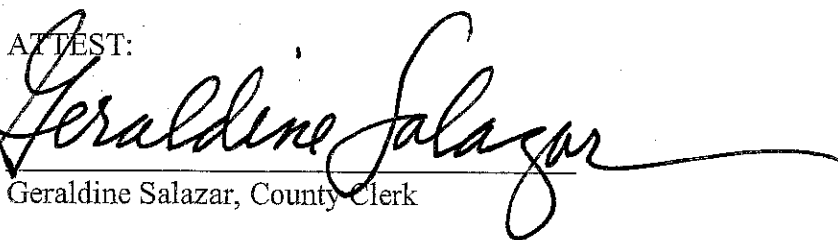
IT IS SO ORDERED.

This Order was adopted by the Commission on this 17th day of May, 2018.

THE SANTA FE COUNTY PLANNING COMMISSION


Charlie Gonzales, Chairperson

ATTEST:


Geraldine Salazar, County Clerk



APPROVED AS TO FORM:



R. Bruce Frederick, County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

PLANNING COMMISSION OR
PAGES: 7

I Hereby Certify That This Instrument Was Filed for
Record On The 18TH Day Of May, 2018 at 08:41:37 AM
And Was Duly Recorded as Instrument # 1857862
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy  County Clerk, Santa Fe, NM

MR. SALAZAR: And, Mr. Chairman, this would be a recommendation of approval.

CHAIR ANAYA: I'm sorry.

MR. SALAZAR: Recommendation of approval with conditions stated by staff numbers 2 through 13 with corrections. We have a motion do we have a second?

MEMBER LOPEZ: I'll second.

CHAIR ANAYA: We have a second by Mr. Lopez.

MEMBER KATZ: I would propose a friendly amendment.

CHAIR ANAYA: Let's hear it.

MEMBER KATZ: An additional condition be added that the buffer zone be a no-build zone.

CHAIR ANAYA: Okay, state that again please.

MEMBER KATZ: The buffer zone be a no-build zone not a one dwelling per acre.

CHAIR ANAYA: Are you talking about that blue area?

MR. SALAZAR: It would be the hatched area that goes along the eastern boundary.

MEMBER KATZ: Yes.

CHAIR ANAYA: Oh, the 200 feet, okay. Okay, Susan?

MEMBER MARTIN: Just for clarification. The friendly amendment changes item 13; is that correct?

MEMBER KATZ: Yes.

MEMBER MARTIN: Okay, thank you.

MEMBER KATZ: Thank you for pointing that out.

CHAIR ANAYA: So it's a 200 feet of no-build zone.

MR. SALAZAR: Correct.

CHAIR ANAYA: Buffer zone.

MEMBER KATZ: That was proposed as a friendly amendment. I don't know whether it's acceptable.

CHAIR ANAYA: Since I made the motion for approval, I will accept the amendment, the friendly amendment to add -- the no-build zone in the buffer of 200 feet in item 13.

On the person that made the second.

MEMBER LOPEZ: Yes.

CHAIR ANAYA: Do you accept the amendment?

MEMBER LOPEZ: Yes.

CHAIR ANAYA: Therefore, we have a first and second with a friendly amendment and changes. All in favor.

The motion passed by unanimous [6-0] voice vote.

- G. **Dorothy Montoya Variance.** Dorothy Montoya, Applicant, requests a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3

(Building and Design Standards) to allow a separate driveway access points for an Accessory Dwelling Unit, a variance of Chapter 10.4.2.4 (Utilities), to allow an accessory dwelling a separate liquid waste system, and a partial plat vacation to allow lot 7 to have an accessory dwelling unit. The property is located at 33 N Paseo De Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, (Commission District 3)

Member L. Gonzales recused himself from this case and Member Martín left the meeting.

CHAIR ANAYA: I have a question for staff for the attorney. Mr.

Gonzales has an issue with this next item that is coming up.

RACHEL BROWN (Deputy County Attorney): Mr. Chair, member of the Commission, I understood that Mr. Gonzales had elected to recuse himself.

CHAIR ANAYA: That is correct; is that all right? Are we still okay with a quorum? Susan left too. She had to leave. We have four.

MEMBER KATZ: I'm good for another hour and a half. [laughter]

CHAIR ANAYA: Next case coming up is V 17-5230, Dorothy Montoya variance.

JOHN LOVATO (Case Manager): Dorothy Montoya, Applicant, requests a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3 to allow a separate driveway access points for an Accessory Dwelling Unit, a variance of Chapter 10.4.2.4, Utilities, to allow an accessory dwelling a separate liquid waste system, and a partial plat vacation to allow lot 7 to have an accessory dwelling unit. The property is located at 33 N Paseo de Angel Road within The La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, Commission District 3.

October 26, 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer recommended denial of the Application as memorialized in the findings of fact and conclusions of law written order Exhibit 10.

The property consists of 2.63 acres within the Residential Estate Zoning District within the La Cienega and La Cieneguilla Community District Overlay as defined by Ordinance 2016-9, the Santa Fe County Sustainable Land Development Code.

The Applicant would like to place a 1,350 square foot residence on her property so that her sons can reside in it. Currently, there is a 2000 square foot modular home located on the property and is serviced with a well and conventional septic system. The Applicant intends to place a new driveway and additional septic system to accommodate the proposed 1,350 square foot accessory dwelling. The SLDC requires a shared driveway and a shared septic so the Applicant is requesting variances from that section. After a Site inspection and further review of the subdivision, it was determined that the subject lot was located within a major subdivision and a note on the Applicant's subdivision, plat note #12 states, Guest homes are prohibited on this lot.

In 1994, an application for Vista de Sandia subdivision was submitted. The Application for plat approval was granted by the BCC in 1996 under case number 94-2173. The approval was for a 16 lot subdivision and lot sizes range from 2.5 acres to 2.63 acres. The lots sizes were derived from a hydrologic study prepared by Jack Frost. Each lot within the subdivision was granted a 0.26 acre-foot water restriction based on the amount of water that the geo hydrologic report proved. A condition was imposed by the Board of County Commissioners that no guest homes were allowed. If the variances are granted the Applicant will submit a request to the BCC for a partial plat amendment to change the note on the plat to allow an accessory dwelling on her 2.63 acre parcel.

In 2016, Under Ordinance 2015-11, the Applicant obtained a permit, permit #16-478, to allow an addition to place a 700 square foot porch to comply with criteria set forth in Chapter 10.4.2.2, Size, to allow a 1,350 square foot accessory dwelling, Ordinance 2015-11, stated the building footprint of the accessory dwelling shall not exceed the lesser of a): 50 percent of total building footprint of the principal residence; or b) 1,400 square feet. Ordinance 2016-9, later amended Ordinance 2015-11, and states, the heated area of the accessory dwelling shall not exceed the lesser of a): 50 percent of heated area of the principal residence; or b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore, a 1,350 square foot accessory dwelling would not meet code requirements.

The Applicants property is located within a major subdivision and Chapter 10.4.2.1, states that platted major subdivisions shall only be permitted to have an accessory dwelling unit if their approval and reports and SRAs allowed and accounted for this. The Applicant proposes a separate septic system and Chapter 10.4.2.4, Utilities, requires the principal dwelling share a septic system. Furthermore, the Applicant requests a second driveway to access the proposed accessory dwelling unit. Chapter 10.4.2.3.3 states an accessory dwelling shall be accessed through the same driveway as the principal residence. Therefore, the Applicant is requesting variances.

The Applicant states, My sons have been unsuccessful at finding an affordable home here in Santa Fe, and I am hoping to help them.

The Applicant responded to the variance review criteria and staff responded to the applicant's response on whether or not the applicant met the variance criteria.

Recommendations: Hearing Officer Recommendation: On October 26 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer recommended denial of the Application as memorialized in the findings of fact and conclusions of law written order as Exhibit 10.

The Hearing Officer denied the variances because although the application is not contrary to the public interest and is in the spirit of the SLDC, there has been no showing of extraordinary and exceptional situations or conditions of the property as required in order to grant a variance. The reasons for seeking the variance are personal to the Applicant and do not involve any conditions of the property.

The Hearing Officer concludes that the request for variances regarding the size of the proposed accessory dwelling, the separate septic system, and shared driveway use are moot. This is based on the fact accessory dwellings are not allowed within a major subdivision, the hydrologic report proving only 0.26 acre-feet per lot, and the plat note stating guest homes are prohibited on these lots.

Staff Recommendation: Staff cannot support the variance to allow an accessory dwelling unit in a major subdivision. The original subdivision did not prove up more than 0.26 acre-feet per lot and stated that guest houses are not allowed. If the Applicant had applied for the accessory dwelling unit in 2015, it would have been allowed by Code but not by subdivision plat.

If the Santa Fe County Planning Commission approves the variance to allow the accessory dwelling unit within a Major Subdivision then staff recommends the following: Approval of the variance request for a second driveway. Chapter 10.4.2.3.3 states that an accessory dwelling shall be accessed through the same driveway as the principal residence. The proposed variance is a minimal easing of Code requirements as the proposed driveway will not be contrary to the public interest, as it meets separation requirements. The condition of the property constitutes an exceptional condition of the property because it is split levels so the strict application so the code would result in practical difficulties and undue hardship on the owner. The spirit of the SLDC is observed as the new driveway will minimize disturbance of the natural terrain.

Approval of the requested variance to allow the size of the accessory dwelling to exceed 50 percent of the heated area of the main residence as proposed. The request will not be contrary to the public interest, exceptional situations exists as the Applicant constructed an addition to the existing residence in order to meet size requirements, then the Code changed, and the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner and the spirit of the SLDC is observed.

Approval of the requested variance to allow an accessory dwelling a separate septic system as the property has split levels which creates a hardship to share the existing system. The new septic has been permitted by NMED. Contrary to public interest the split levels create exceptional situation of the property, the strict applications of the code would result in peculiar and exceptional practical difficulties due to terrain and so that the spirit of the SLDC is observed.

If the Santa Fe County Planning Commission approves all variances, staff recommends the following conditions be imposed:

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guest houses. [The applicant must request and obtain approval of a plat amendment from the BCC.- clarified by Ms. Lucero]
2. Applicant must install a meter on the well and submit proof at time of development permit application

Thank you, Mr. Chair, Commissioners, I stand for questions.

CHAIR ANAYA: Do we have any questions for staff? Mr. Gonzales.

MEMBER C. GONZALES: John, right now as is, the applicant could build a 1,000 square-foot house but they'd have to tie into the existing utilities; is that correct? Without a variance.

MR. LOVATO: Mr. Chair, Commissioner Gonzales, without a variance and many other major subdivision – in many places they can do so. In this instance they

MEMBER C. GONZALES: Okay, because of that note.

MEMBER KATZ: Mr. Chairman.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: To what extent is the condition on the plat that there are no guest houses, something that people who bought in the area would have relied on.

MS. LUCERO: Mr. Chair, Commissioner Member Katz, being that there was a not placed on the plat that basically gave all of those property owners disclosure that they couldn't have a guest house if they were to request one. So I would imagine that they all relied upon that condition as not being allowed to have a secondary dwelling unit.

MEMBER KATZ: Thank you.

CHAIR ANAYA: Any other questions for staff at this time? Oh, I'm sorry, Vicki.

MS. LUCERO: No problem. Mr. Chair, I wanted to actually amend or clarify condition 1 that staff was recommending. What we would request is that it state, "The applicant must request and obtain approval of a plat amendment from the BCC." So it wouldn't just be the request they would also have to obtain approval from the BCC. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Vicki. Any other questions of staff? Seeing none, is the owner here.

[Duly sworn, Dorothy Montoya testified as follows]

DOROTHY MONTOKYA: Dorothy Montoya, 33 Paseo de Angel North, Santa Fe, New Mexico. I'd first like to say I bought my property in 2000. When I purchased my property, the people told me, the people that sold me the property told me that accessory dwellings were allowed. Well, that said that we could subdivide the property and I always - I never looked into all these years because my kids were little and I just figured I was able to do that when the time came.

Probably about five years ago I looked into and I called the County and they told me that we can no longer subdivide but we could put an accessory dwelling. At the time I wasn't ready to do that because we didn't have the money and my kids were still young. About two years ago I came to the County thinking I could get this all going now that my kids were older. I have four boys and my two older boys are 25 and 26 and they wanted to get their own place and be responsible for their own home and I told them, well, you could put a house on our property. That's why we bought it. It's huge. It's almost three acres. There's no other reason we bought it, just for our kids.

They told me, Yeah, we could put an accessory dwelling I got the permits because they told me I needed to add square footage to my house which I did. I got the permit to get a porch done. I added this humongous porch that I didn't need. I was never planning to build a huge porch like that. I couldn't afford it. I took out a loan of \$7,000 to pay for this porch and to pay for the people doing it because my kids really wanted a home here and they wanted a home on our land.

We love La Cienega. We want to continue living there. So I spent \$7,000 on that. That's not including all the permits I needed for it and I had to get a State permit and a County permit. I did all of that. I thought, okay, we're done with this now we can get their accessory dwelling. I put \$4,000 down to help them buy their septic and they put a down payment on their home which we thought we could get a 1,350 square foot. It wasn't like we wanted this size because we wanted. We thought, that's the size we could get because we had 2,700 square feet on my home. So my boys put down a down payment, they picked their home, I put down \$4,000 for the septic. We were just going

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to start developing, I went to the County to tell them I had all my paperwork that's when they told me, Oh, no, this is not accepted anymore. We can't put an accessory dwelling. I was furious because I would have not even started this if I would have known that. I wouldn't have spent all of that money on a humongous porch that I didn't need, put the down payment on the septic, got my boys' hopes up thinking they could live on the property. It's just been - I've been doing every single thing that the County asked me to do. I've been here probably about a million times, a bunch of meetings, I paid everything that I needed to pay regarding fees and permits and everything and now I'm not allowed to do that.

I wanted to get a lawyer but I can't afford that. I'm a single mom with four boys and that's just not easy for me to do. So now they told me that I can come back and through this process and that's what I have been doing. I'm really hoping that this goes through because if it doesn't my boys are going to probably move to Albuquerque and I will probably follow them which I don't want to do because I have an elderly mother who lives in Santa Fe. I grew up in Santa Fe. My boys grew up in Santa Fe. I would like them to stay here but if this is a town that doesn't care about family and only cares about accepting big businesses and rich people to come out then that's fine, I'll move. And so far I've seen that all these people that come and ask for approvals for things have been people that are developing and rich people. And I'm just not there. I am hoping to get this approved. I've done everything I've been asked to do and I am not doing it just to expand my land or anything like that. I don't need 3 acres of land. I bought it for my kids and I just hope that you guys approve this because other than that, my kids are going to leave and I probably will too. I've been with the State, I work with the State for 26 years and my two sons both have a job with the State and we thought that this was a place we could live and my kids could grow up and my grandkids can grow up. But that's basically all I have to say.

CHAIR ANAYA: One quick question. You said 3 acres?

MS. MONTOYA: It's 2.66 acres. They say it is 2.63 but we were told it was 2.66.

CHAIR ANAYA: Okay, another question. You said that your sons had put a down payment on a home; is that a manufactured housing?

MS. MONTOYA: Yes.

CHAIR ANAYA: Are all the other houses around you, are they manufactured homes?

MS. MONTOYA: Most of them are and most of my neighbors have two dwellings or they're subdivided. There's a neighbor across the street that is subdivided, they did that a long time ago for their son. And I don't know why I couldn't do it. There's people that have two driveways on my street. There's people that have a bunch of horses and several families live in one place and this is all accepted and I can't even provide for my two boys. We will not have any more people in our family. It just me and my four boys. They'll be using the same amount of water. The driveway that we're planning to put in does not hit any of the other driveways across from us. There's when we develop it - there's not a bunch of trees that we're going to have to knock down or anything. It's pretty flat where we're going to develop. The only reason why we can't put two driveways - I mean we can't use the same driveway is I'm on a hill and in order to do one driveway the kids would have to come in through my driveway and go down a

steep hill or I'd have to build a road and that would cost a lot. And the property where they want to put their house is right next to the road, right level to the road and we've already been driving through there because that's how we can access the back of our property. It's not like we have to do anything major and run over trees or arroyos or anything. It's right connected to the property. I wanted to hookup their septic to mine but they said that considering the big house that we have and their size of their home, they'd have to put a small septic which won't be interfering with anybody else's septic or water lines in that area. Our well is on top of the hill and far from their septic and my septic. Their septic won't be very close to my septic. There's no chance of it flooding there because we're on a hill and all of the water runs down on the street, down the street, so there's no chance of flooding.

All of my neighbors, well, not all of them, several of them that I talked to are pretty okay with it. They think there should be no reason why we can't do that -- we can't put another accessory dwelling there. I had nobody oppose it and I sent letters out to all the neighbors within 500 feet. Nobody opposed it at all. I don't think -- the water usage would be the same. It's still the same amount of people. We don't have any horses. We don't have a lot of landscaping that needs a lot of water. I don't think I should have to put a meter on the water when nobody has a meter on their water there. Not that I'm afraid we're going to go over: I know we won't. But that's more expense for me to have to pay for a water meter and to have to report that.

CHAIR ANAYA: Okay.

MS. MONTOYA: I just feel that I'm doing everything I was told to do. I am doing everything legally and I know people that haven't and they have no problems. And I feel that I have tried to do things legally and I'm having all sorts of problems.

CHAIR ANAYA: You didn't submit any pictures with your application or anything like that so that we could actually --

MS. MONTOYA: I do have pictures.

CHAIR ANAYA: But you didn't submit any with the application that you --

MS. MONTOYA: Well, the County is the one that provided pictures for me. They provided the aerial photo and I provided the plat, my plat.

CHAIR ANAYA: The plat that you wanted to do just on your lot?

MS. MONTOYA: Yeah, the plat of my property and where we want to put the dwelling and the driveway. I also paid for my septic permit already and I submitted the paperwork for the septic permit, it was already approved. I have copies of all of that. If you want copies of it now --

CHAIR ANAYA: No, that's fine. But in the future if you have to -- because that helps visualize a lot of that. And you're talking about your neighbors and what they have well, this Board --

MS. MONTOYA: I have an aerial.

CHAIR ANAYA: This Board has not been to your location so we can't tell what's there without looking.

MS. MONTOYA: I have an aerial photo of my plot and the neighbors around there so you can see all of that.

CHAIR ANAYA: Any questions from the staff for the owner at this time? Seeing none, okay, thank you, Mrs. Montoya. This is an open hearing, open meeting. If

there is anybody in the audience that wishes to speak for or against the project please come forward. Seeing and hearing none, the open session is closed.

Next item up is for the Board, do you have any questions for staff at this time?
Mr. Gonzales.

MEMBER C. GONZALES: John, have you been to the site?

MR. LOVATO: Mr. Chair, Commissioner Gonzales, yes, I have been to the site.

MEMBER C. GONZALES: I saw something in the report about 30 percent slopes by the driveway and so forth. What does the site look like as far as terrain management?

MR. LOVATO: The site where the actual her current residence is on, it's on a hilltop. It would be considered a ridgetop. So it does have 30 percent on more than one side. That's kind of how staff leaned if you guys were going to approve the variances that it wouldn't be such a big deal because this is -- they're clearly going to disturb a lot of 30 percent and scare up that hillside.

MEMBER C. GONZALES: So is the actual proposed site, is it pretty flat?

MR. LOVATO: The proposed site is pretty flat. It is within two other hills so it is kind of sunken in a bit. But it is flat, at the most 15 percent.

MEMBER KATZ: Mr. Chairman.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: So if we were to approve with the conditions suggested, that essentially boots it up to the Board and they would have to decide whether they want to vacate the rule about no guesthouse?

MS. LUCERO: Mr. Chair, Commission Member Katz, if the Planning Commission approves the variances then they would all be approved. The Planning Commission has final authority on variances. It's just that the note on the plat that says, guesthouses are not allowed, would be contrary to the variance so that plat note would have to be amended by the Board because they approved the initial plat.

MEMBER KATZ: Okay, thank you. I would make a motion if you're ready.

CHAIR ANAYA: Let me ask John one other question real quick. John, the area over there evidentially it is manufactured housing and stuff, is there a lot of places that have two homes on it -- a second dwelling, in other words?

MR. LOVATO: Mr. Chair, there is many that has accessory structures but not dwellings. There was one across the street that was and actually was brought into compliance with Code Enforcement. But the surrounding locations, other than the subdivision, there are a few. And then there's also lots that are 1.25 acre.

CHAIR ANAYA: Thank you, John. Okay, pleasure of the Board.

MEMBER KATZ: Mr. Chair, in case of V 17-5230, I would move to grant the three variances with the conditions that were specified as amended so that they must request and get a plat amendment from the Board.

MEMBER LOPEZ: I second that motion.

CHAIR ANAYA: We have a first and a second with the amendments on condition 1 as stated by staff earlier. We have a first and a second. All in favor.

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The motion passed by unanimous [4-0] voice vote. [Member Martin was not present for this action and Member L. Gonzales recused himself.]

MS. BROWN: Mr. Chair, did you vote on this matter because it does require a majority of the Board to approve a variance. Okay.

CHAIR ANAYA: Thank you, John.

MR. LOVATO: Thank you.

MS. MONTOYA: Thank you very much.

CHAIR ANAYA: Good luck.

H. Executive Session as allowed by Section 10-15-1(H)(3) NMSA 1978, Deliberation by a public body in connection with an administration adjudicatory proceedings

MS. BROWN: The executive session is only to deliberate on an item that you're about to make a decision on.

MEMBER KATZ: It's very confusing to have it on here.

CHAIR ANAYA: Don't I still have to ask because it's on the item – it's on the minutes.

MS. BROWN: Mr. Chair, I think you can skip over it if you haven't used it during the session. And we will put it on the agenda in a different manner in the future where it is simply a note at the bottom saying that for any of the items on the agenda you could go into executive session.

CHAIR ANAYA: Thank you.

I. Petitions from the Floor

None were offered.

J. Communications from the Committee

Wishes for a Merry Christmas and a Happy New Year were shared.

K. Communications from the Attorney

None were presented.

L. Matters from Land Use Staff

Staff wished all a Merry Christmas and Happy New Year.

M. Next Planning Commission Meeting: January 18, 2018

SFC CLERK RECORDED 02/16/2018

SANTA FE COUNTY MEMORANDUM

BOARD OF COUNTY
COMMISSIONERS AGENDA
ITEM NO. 110

DATE: JANUARY 10, 1995
TO: BOARD OF COUNTY COMMISSIONERS
FROM:
SUBJECT: COUNTY LAND USE STAFF

VISTA DE SANDIA

On November 10, 1994 the EZC recommended denial based on consideration for health, safety and welfare concerning water availability and quality issues within the La Cienega Water Basin. This applicant would also be subject to the conditions imposed on the Por Su Gracia Subdivision (Vista Del Mundo, Inc. Sam Valencia) and the Vallecita De Gracia Subdivision (J.K. Squared, Inc. James Brown) for future connection to the County Water Utility. (See attached conditions)

Background: Vista De Sandia Corp. (Louis Gonzales) is requesting approval for a 16 lot residential subdivision on 42.0 acres off of County Road 54. The lots will range in size from 2.5 to 3.6 acres.

Access to the lots will be from O'Connors Way, Gonzales Way and Avenida De Rebecca which connects off of County Road 54. Each of the three private roads are 24' wide with gravel driving surfaces.

Shared wells serving no more than 4 lots will be utilized. The submittals indicate that the wells will be drilled to the deeper Tesuque formation with special design for sealed construction in order that water is not drawn from the shallow Ancha formation. Each lot will be restricted to .25 acre feet per year per lot. Conventional septic tank and leach fields will be utilized for liquid waste disposal. Fire protection will be provided by a water storage tank with hydrants and/or interior residential sprinkler systems.

The southeast of the property lies within the 100 year flood zone. Slope is primarily between eight (8) and twenty five (25) percent, with some isolated areas over twenty five (25) percent.

The soil analysis indicates adequate soils for the development uses. All utilities will be underground. One isolated significant archaeological site was discovered.

The homeowner documents and disclosure statement must address ownership and maintenance of roads, fire protection system, common area, and solid waste removal.



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RECOMMENDATION: Staff recommends approval subject to maintaining consistency with the policy and direction established by the BCC for the lot division appeals at the December meeting. This policy and direction consists of specific conditions and criteria (see attached) that would legally require lot owners to connect to the County Water Utility in the future, and during the interim period, utilize wells that are draining water from the deeper Tesuque formation and subject to special design for sealed construction in order that water is not drawn from the shallow Ancha formation.

COUNTY CONDITIONS:

1. Compliance with review comments from the following as applicable:
 - a. State Engineers
 - b. State Environment Department
 - c. Soil and Water District
 - d. State Highway Department
 - e. State Historical Division
 - f. County Hydrologist
 - g. County Fire Marshal
 - h. County Public Works Director
 - i. Metropolitan Water Board Director
2. Approval of street names and rural addressing by County Public Works staff (street and traffic signs to be included in financial surety).
3. Final home owners documents (covenants, by-laws, articles of incorporation) and disclosure statement subject to approval by staff and shall include but not limited to the following:
 - a. water restriction of .25 acres feet per lot, per year
 - b. water meter
 - c. specify water conservation measures
 - d. contracting licensed collection service for soled waste disposal
 - e. maintenance and repair plan outlining measures needed to protect quality of road
 - f. delete reference that post development drainage can be channeled into arroyos
 - g. ownership and maintenance of roads, fire protection system and common area by home owners association.

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4. Complete final plat content subject to approval by staff and shall include but not limited to the following:
 - a. grant roads for public use
 - b. at a the time a permit is requested for a dwelling unit, on on-site terrain management plan is required addressing retention of post development drainage, erosion control measures and drainage structures
 - c. cross reference for recording covenants
 - d. prohibit guest houses
 - e. jurisdiction statement for city and County
 - f. delineate drainage easements, and shall remain in natural condition.
 - g. development permits for dwelling units will not be issued until all road and fire protection infrastructure has been completed as required by the County fire Marshal
 - h. remove topographic contours and road details from plat of survey
 - j. maintenance of roads and common recreational open space is the responsibility of the homeowners association.
5. Submit engineers cost estimate with financial surety for all required improvements. Include schedule of compliance projecting time period for completion of improvements. Upon completion submit a certification by registered engineer that improvements have been completed in accordance with the approved development plan.
6. Submit solid waste fees in accordance with subdivision regulations (\$39.02 per lot).
7. Designate one acre for common recreational open space on plat. At least half of the land shall be suitable for recreational facilities (courts, playground equipment, picnic tables, barbecue grills).
8. Notify County Sheriff and La Cienega Fire district.
9. Development plan for road construction as follows:
 - a. 3% crown
 - b. as built plans demonstrating conformance with road standards and terrain management
 - c. cul-de-sac typical

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CITY CONDITIONS:

1. The slope analysis is not certified by a land surveyor or professional engineer.
2. The slope analysis is not acceptable. The slope breakdown does not comply with code requirements.
3. Substantial encroachments on areas of 25 percent or greater slope are clear violations of Terrain Management Regulations.
4. There were no roadway plan and profile sheets provided to review the feasibility of accessing the lots.

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11. o. Vista de Sandia is requesting an approval for 16 lot residential lots on 42.14 acres. Vista de Sandia Corporation, Louie Gonzales, applicant. Property is located off County Road 54, within the 5 mile EZ District. Sections 21, 22, 27, 28, Township 16 North, Range 8 East, Santa Fe County, NMPM.

MR. CATANACH: Madame Chairman, Commissioners. Again, staff would request that the report, prior discussion, relevant issues be considered for this as well.

CHAIRMAN PLATTS: Very well. Any questions of the Commission? Is the applicant here, please? Please step forward and be sworn.

[Having been duly sworn, Mr. Louis Gonzales testified as follows.]

MR. LOUIS GONZALES: Louis Gonzales.

CHAIRMAN PLATTS: Do you have any comments or questions that you wish to --

MR. GONZALES: No, in the matter of time, I'll agree to all the conditions.

CHAIRMAN PLATTS: You are in agreement with the previous proposals?

MR. GONZALES: Right.

CHAIRMAN PLATTS: Very good. Thank you. Are there any questions of the applicant?

COMMISSIONER TRUJILLO: No questions, Madame Chairman.

CHAIRMAN PLATTS: Is there anyone in the audience who wishes to speak on this one? Let the record show there is none. If there's no further discussion --

COMMISSIONER ANAYA: Madame Chairman.

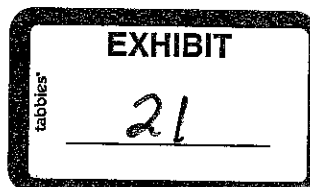
CHAIRMAN PLATTS: Yes.

COMMISSIONER ANAYA: I move for approval as per the previous two proposals that were presented to us with the conditions as imposed in its entirety.

CHAIRMAN PLATTS: Thank you. Is there a second?

COMMISSIONER RODRIGUEZ: Second.

CHAIRMAN PLATTS: Is there any further discussion? All in favor. [Unanimous] Opposed? Carried.

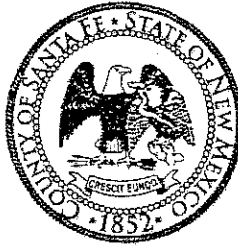


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Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

**CASE NO. MIS 18-5000
PARTIAL PLAT VACATION
DOROTHY MONTOYA, APPLICANT**

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) on a request to allow a partial plat vacation to modify a plat note that prohibited guest houses within the Vista de Sandia Subdivision to allow lot 7 to have an accessory dwelling unit, and an amendment to a previously imposed condition by the BCC prohibiting guest houses. The property is located at 33 N. Paseo De Angel Road within the La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within, Section 21, Township 16 North, Range 8 East, (Commission District 3).

The BCC, having reviewed the Application, supplemental materials, and staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to conditions, and makes the following findings of fact and conclusions of law:

1. The BCC granted plat approval for the Vista de Sandia Corporation Subdivision on January 10, 1995 in case 94-2173. The plat was recorded on April 29, 1996 in book 333, page 004-005 (hereinafter Plat) of the records of Santa Fe County. The approval was for a 16 lot residential subdivision and lot sizes ranged from 2.5 acres to 2.63 acres. The lot



sizes were derived from a hydrologic study prepared by Jack Frost. Water use on each lot within the subdivision was restricted to 0.25 acre foot per year.

2. Note 12 of the Plat states that "Guest houses are prohibited on these lots."
3. Applicant is the owner of Lot 7 on the Plat.
4. The Applicant requests approval to vacate Plat note 12 to allow an accessory dwelling on Lot 7. The Applicant's intent by vacating note 12 is to build a 1,350 square foot accessory dwelling for her children on Lot 7.
5. In 2016, under Ordinance 2015-11, the Applicant obtained a permit (#16-478) to add a 700 square foot porch to her home and thereby increase the building footprint of her home so that she could meet the criteria required for a 1,350 square foot accessory dwelling set forth in Chapter 10.4.2.2 (Size) of that Ordinance (stating the building footprint of the accessory dwelling shall not exceed the lesser of (a): fifty percent (50%) of total building footprint of the principal residence; or (b) 1,400 square feet.) Before Applicant completed her porch and secured a permit for her accessory dwelling unit, Ordinance 2015-11 was amended by Ordinance 2016-9.
6. Ordinance 2016-9 (SLDC), amending Ordinance 2015-11, states that the heated area of the accessory dwelling shall not exceed the lesser of (a): fifty percent (50%) of heated area of the principal residence; or (b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore, a 1,350 square foot accessory dwelling would not meet code requirements. The SLDC also prohibited accessory dwelling units within a major subdivision. In addition, the note on the subdivision plat stated no guest homes were allowed. Accordingly, the Applicant was informed by Land Use staff that she would

REC'D CLERK RECORDED 05/31/2016

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on the property, beginning on February 20, 2014. These noticing efforts comply with the noticing requirements of the Code.

11. The Applicant agreed with staff's conditions.
12. Staff stated that water restrictions were imposed on the Vista de Sandia Corporation Subdivision at the time of approval based on a hydrologic study.
13. Note 3 on the Plat, states the following with regard to water restriction:

Water well withdrawal on these lots restricted by covenants filed in the office of the County Clerk Recorded in Book 1264 Page 911-920 Document No. 943-374.
14. Paragraph 5 of Article VII of the Declaration of Covenant, Conditions, and Restrictions for the Vista de Sandia Subdivision, recorded in Book 1264, Page 911-920 Document No 943-374 (Covenants, Conditions, and Restriction) states the following:

Domestic water use for the lots is restricted to .25 acre feet per Lot per year as required by the Santa Fe County Land Development Code.
15. The BCC finds that a meter on the Applicant's well will ensure that water use on Lot 7 does not exceed a total of .25 acre feet per year for the dwelling and accessory dwelling combined
16. The BCC finds that if combined total water use for both the dwelling and accessory dwelling does not exceed .25 acre feet per year, then there are no adverse impacts to the interests of persons on contiguous land or persons within the subdivision being vacated.
17. The BCC finds that the condition imposed by the Planning Commission requiring a meter will protect the public health, safety, and welfare by ensuring the Applicant's total combined water use on Lot 7 does not exceed the .25 acre feet per Lot per year restriction set forth in the Plat and Covenant, Conditions, and Restrictions.

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need variances and a partial plat vacation despite having constructed a porch to increase her building footprint.

7. On December 12, 2017, the Santa Fe County Planning Commission granted a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3 (Building and Design Standards) to allow a separate driveway access points for an Accessory Dwelling Unit, and a variance of Chapter 10.4.2 4 (Utilities), to allow the accessory dwelling a separate liquid waste system for Lot 7 of the Vista de Sandia Subdivision subject to the following conditions:

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guest houses.
2. Applicant must install a meter on the well and submit proof at time of development permit application.

8. Chapter 5, Section 5.11.2.3.2 of the SLDC states:

Standards. The Administrator or Board shall approve the application for vacation on such terms and conditions as are reasonable to protect the public health, safety, and welfare. The Administrator or Board shall not approve an application for vacation if it will adversely affect the interests of persons on contiguous land or persons within the subdivision being vacated.

9. At the March 13, 2018 BCC meeting, no member of the public spoke at the public hearing on this matter either in favor of or in opposition to the Application.

10. In advance of a hearing on the Application, the Applicant provided notice to the New Mexican, which was published on February 20, 2018. The Applicant has also provided

certification of posting acknowledging that the public notice has been posted for 15 days
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18. The BCC finds that the Applicant has a unique situation that warrants the approval of a partial vacation of the accessory dwelling prohibition for Lot 7, because of her history with the Land Use Department.

WHEREFORE the BCC hereby approves, by a unanimous 5-0 vote, the Applicant's request to allow a partial plat vacation of the Vista de Sandia Corporation Plat filed at Book 333, Page 004-005 of the Records of Santa Fe County to allow Lot 7 an accessory dwelling subject to the following conditions:

1. The Applicant shall re-record the Vista de Sandia Corporation Subdivision plat with language consistent with this Order that modifies Plat note 12 to permit an accessory dwelling unit on Lot 7.
2. The combined total water use for both the Applicant's dwelling and the accessory dwelling shall not exceed .25 acre feet per year, consistent with note 5 on the Plat.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on this 29 day of May 2018.

By:

Anna Hansen
Anna Hansen, Chair



Attest:

Geraldine Salazar
Geraldine Salazar, County Clerk

Approved as to form:

R. Bruce Fredrick
R. Bruce Fredrick, County Attorney

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CHAIR HANSEN: I know there's some legal ramifications with giving out information.

MS. RODRIGUEZ: Correct.

CHAIR HANSEN: But at the same time, Megan, if I can call you that, I will give your number to Mr. Sedillo.

MS. RODRIGUEZ: Thank you. And I will also give a call too. Thank you.

CHAIR HANSEN: Thank you. Thank you both very much.

MR. CHAVEZ: Another question, if I could, members of the Commission. We know that the facility, because it is, has been functioning as a de facto mental health facility, depends on staff. We're spending about \$4.5 million at that facility providing general health and behavioral health services. That could be a good thing, but if someone is kept in isolation, in solitary confinement, that does no one any good. If we don't have the full complement of staff, both psychiatrists and psychologists at the same time, working in lock-step, every day there's a gap in services. So it's a very challenging place to operate on a daily basis, just for the normal, what I would call the normal population, but then you have 50 to 60 percent of that population that's in that facility that's been diagnosed with a mental condition. So it's good that we as Commissioners and I as a former Commissioner tour that facility, because it is a real eye-opener, but we need to change the way that we're doing things and it needs to happen sooner than later. Thank you.

CHAIR HANSEN: Thank you very much. Thank you both for coming here.

COMMISSIONER ROYBAL: Madam Chair.

CHAIR HANSEN: Yes.

COMMISSIONER ROYBAL: I'd just I like to comment as well and thank Ms. Megan Rodriguez and former Commissioner Miguel Chavez for being here today and giving us this information. We know that we need to be more pro-active than re-active, and right now I know that our Community Service Division and the County Manager's Office is working on these issues and we do have the GRT funds that are going to be coming available and eventually we will have community input as to the triage center and all these services that we do want to provide, but I really would like to see you both stay active in coming and working here and bringing all this information forward. So I just want to say I appreciate your being here today, both of you. Thank you.

CHAIR HANSEN: Yes, thank you.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HANSEN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Yes, Madam Chair. I echo the comments of Commissioner Roybal and yourself and I hope they continue to stay active and participate in the process. Thank you.

CHAIR HANSEN: Okay. Thank you.

VIII. PUBLIC HEARINGS

A. Land Use Cases

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CASE # MIS 18-5000 Dorothy Montoya Plat Vacation.

Dorothy Montoya Applicant, Requests a Partial Plat Vacation

SFC CLERK RECORDED 04/11/2018

to Allow Lot 7 to Have an Accessory Dwelling Unit. The Property is Located at 33 N Paseo de Angel Road within the La Cienega and La Cieneguilla Community District Overlay, within the Residential Estate Zoning District, within Section 21, Township 16 North, Range 8 East (Commission District 3)

JOHN LOVATO (Case Manager): Thank you, Madam Chair, Commissioners. In 1994, an application for Vista de Sandia Subdivision was submitted. The application for plat approval was granted by the BCC in 1996 under Case number 94-2173. The approval was for a 16-lot residential subdivision and lot sizes ranged from 2.5 acres to 2.63 acres. The lots sizes were derived from a hydrologic study prepared by Jack Frost. Each lot within the subdivision was granted a 0.26-acre-foot water restriction based on the amount of water that the geo hydrologic report proved. A condition was imposed by the Board of County Commissioners that no guest homes were allowed.

In 2016, under Ordinance 2015-11, the applicant obtained a permit, permit #16-478, to allow an addition to place a 700 square foot porch to comply with criteria set forth in Chapter 10.4.2.2, Size, to allow a 1,350 square foot accessory dwelling, Ordinance 2015-11 stated the building footprint of the accessory dwelling shall not exceed the lesser of a) fifty percent of total building footprint of the principal residence; or b) 1,400 square feet.

Ordinance 2016-9 later amended Ordinance 2015-11, and now states, the heated area of the accessory dwelling shall not exceed the lesser of a) fifty percent of heated area of the principal residence; or b) 1,400 square feet. The heated area of the principal residence is 2,000 square feet, therefore a 1,350 square foot accessory dwelling would not meet code requirements. The amended SLDC also prohibited accessory dwelling units within a major subdivision. In The amended SLDC also prohibited accessory dwelling units within a major subdivision. In addition, the note on the subdivision plat stated no guest homes were allowed.

On December 12, 2017 the Santa Fe County Planning Commission granted a variance of Chapter 10.4.2.1, to allow an accessory dwelling within a major subdivision, a variance of Chapter 10.4.2.2, to allow an accessory dwelling to be 1,350 square feet where the main house is 2000 square feet heated floor area, a variance of Chapter 10.4.2.3.3, Building and Design Standards, to allow a separate driveway access points for an accessory dwelling unit, and a variance of Chapter 10.4.2.4, Utilities, to allow an accessory dwelling a separate liquid waste system for Lot 7 of the Vista de Sandia Subdivision subject to the following conditions:

1. The Applicant must request a plat amendment from the BCC to modify the note that prohibits guesthouses.
2. Applicant must install a meter on the well and submit proof at time of development permit application.

The applicant stated, "My sons have been unsuccessful at finding an affordable home here in Santa Fe, and I am hoping to help them."

Staff recommendation: The original subdivision did not prove up more than 0.26 acre-feet per lot and stated that guesthouses are not allowed. The applicant was unaware of the note on the plat and if the applicant would have applied for the accessory dwelling

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unit in 2016, it would have been allowed by Code but not by subdivision plat.

If the Board of County Commissioners approves the plat vacation and amends the previously imposed condition, staff recommends the following conditions be imposed. Madam Chair, may I enter those conditions into the record?

CHAIR HANSEN: You may.

[The condition is as follows:]

1. The Applicant shall re-record the Vista de Sandia subdivision with the amendment to plat note #12 to allow an accessory dwelling unit on lot 7.

MR. LOVATO: Thank you, and I stand for any questions.

COMMISSIONER ROYBAL: I don't have any questions but I'd like to, if the applicant's here, are you amenable to going with staff recommendations?

[Duly sworn, Dorothy Montoya testified as follows:]

DOROTHY MONTOYA: My name's Dorothy Montoya and my address is Paseo de Angel North, Santa Fe.

COMMISSIONER ROYBAL: Okay, so you're willing to accept the conditions that staff has recommended?

MS. MONTOYA: Yes. I was questioning the one about the meter on my well because I didn't really want to have to go through any extra expense to put a meter on my well, because nobody else on my street has any sort of meter and there are several people with accessory dwellings on there. So I'm a single mother and I've got four boys and I'm just trying to keep my expenses down to a minimum. I'm trying to help them to get the land developed and if we were able to do that, so that they could put a small double-wide on my land.

When I purchased my home in 2000, 18 years ago, we were told we could put another -- we could subdivide. That's what we were told. So and ever since then I've been looking into trying to do that and I never knew about all these changes and I've done everything they've asked me to do -- gone to a million meetings and paid for permits and got this huge porch done, just in hopes of getting my sons this home. I work for the State of New Mexico. I've been here all my life and I really want to stay here and live in La Cienega but it's just getting real expensive for me and my boys. So we hope this all goes through so we can get that done for them.

COMMISSIONER ROYBAL: And Mr. Lovato, what is the cost of a meter that she'll be required to put in? And do we have any programs that we could help with those type of purchases? Or not?

MR. LOVATO: Madam Chair, Commissioner Roybal, I don't know that. I can find that out for her. And I don't believe we have any programs that can help with that situation.

COMMISSIONER ROYBAL: Okay. All right. If we could get that information. So you have no idea what the cost is, right? For a meter like that?

MR. LOVATO: Madam Chair, Commissioner Roybal, I do not.

COMMISSIONER ROYBAL: I think that's probably something we should try and look at in the future if we're going to require that they put meters, if we can get at least costs. Unfortunately, those are the staff recommendations. I'm willing to move for approval, as long as you're okay with the staff recommendations. Okay. So I want to make a motion to approve with staff recommendations.

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CHAIR HANSEN: Okay. I have a motion. Do I have a second?

COMMISSIONER ANAYA: I second that.

CHAIR HANSEN: You'll second, Commissioner Anaya?

COMMISSIONER ANAYA: Yes.

CHAIR HANSEN: Okay, so I have a motion and a second. Do I have any discussion?

MR. FREDERICK: Madam Chair, I just want to interject, we should probably close public hearing, and also remind you that if you want to deliberate in executive session you can certainly do that.

CHAIR HANSEN: So I want to open first public comment. So is there anybody here from the public who would like to speak? Seeing none, I will close public comment. So public comment is now closed.

COMMISSIONER HAMILTON: I think it would be beneficial to have a short deliberation in executive session, from my point of view.

COMMISSIONER MORENO: I'd be okay with that.

CHAIR HANSEN: Okay.

COMMISSIONER ANAYA: I'm fine with that, Madam Chair.

CHAIR HANSEN: Okay. Good. We'll take -- we need to have a motion to go into executive session to discuss --

MR. FREDERICK: Madam Chair, I can read it here. We'll go into executive session to conduct Board deliberations in public hearings on the agenda as allowed by Section 10-15-1-H(3).

COMMISSIONER HAMILTON: I would so move.

COMMISSIONER ROYBAL: Second.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (3) to discuss the matters delineated above passed by unanimous roll call vote as follows:

| | |
|-----------------------|-----|
| Commissioner Anaya | Aye |
| Commissioner Hamilton | Aye |
| Commissioner Hansen | Aye |
| Commissioner Moreno | Aye |
| Commissioner Roybal | Aye |

[The Commission met in closed session from 6:03 to 6:24.]

CHAIR HANSEN: Can I have a motion to come out of executive session?

COMMISSIONER ROYBAL: So moved.

CHAIR HANSEN: You need to state what happened.

COMMISSIONER ROYBAL: Can you give us a summary of what happened in executive session, County Attorney?

MR. FREDERICK: Madam Chair, if the record could reflect that the only matters that were discussed in the executive session, but before public hearing and after

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La Cienega Valley Association

P.O. Box 23554

Santa Fe, New Mexico 87502

Preserving Our Rural Way of Living

lacienegavalley.com

July 12, 2018

Robert Griego, Planning Manager
Growth Management Department
Santa Fe County
102 Grant Avenue
Santa Fe, New Mexico 87501

Dear Robert,

At the Open House on June 27, you and your staff held in La Cienega I gave you copy of the Notice of Public Hearing for Case # V 18-5070 Angelo Ortega Variance submitted by James W. Siebert and Associates, Inc.. The date of the Public Hearing before the Planning Commission is July 19. The Notice also indicated that the public hearing before the County Hearing Officer was held on June 14th which was before the Notice was received by the LCVA:

At the LCVA Board meeting on July 2, the Board discussed the proposed variance. The following are both general and specific variance concerns and issues raised by the LCVA Board.

No one on the Board could remember this variance request coming before the for LCVA an established Community Organization as required by County Code. Please inform the LCVA what review process was followed for this variance request and please inform us why the Notice was received after the Public Hearing before the County Hearing Officer.

The general concern we have is the information provided in the Notice is incomplete and limited. It does not provide details needed for the Board to make an informed decision on the request. The size of the lot, water rights, adherence to well to meter requirements are some of the information not provided. This leads to a greater concern about the variance review process and that is that Community Organizations are required to review variances but are required to do so without the County having conducted a site inspection to verify the variance petition is as presented and a lack of understanding of the process, with inadequate information and with no County staff present to answer questions the Board may raise regarding compliance with the Code and the Plan.

On several occasions, this has placed the LCVA in the awkward position of listening to residents and attempting to make important community decisions without sufficient information. Literally placing Board members in the position of guessing what the intent and parameters of proposed variances are and whether the variances conform with the Code and Plan. It has also brought into question as to whether there is any value in being a Community Organization. This is a



discussion the LCVA Board will continue to have until we can gain more information and participation from the County.

Finally, the LCVA Board wants to make it very clear that until there is an established and funded plan to bring water into our community we will oppose any variance requests that impact our limited water resources. Our community has stood by too long as uncontrolled and unplanned growth has steadily depleted our water sources and threatened the history and traditions of our community. The LCVA Board opposes this variance for this reason and for the lack of information and resources from the County.

Sincerely,

~~Carl E. Dickens, President~~
La Cienega Valley Association

Cc: LCVA Board
Penny Ellis Green, Director Growth Management Administration
County Commissioner Robert Anaya

